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DEPARTMENT FOR WHA/CAN AND EB/ESC/IEC  
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SUBJECT: NO NEWS IS GOOD NEWS FOR ALASKA GAS PRODUCERS

REF: A. OTTAWA 695

[1](#)B. OTTAWA 603

[1](#)C. OTTAWA 134

[1](#)1. (SBU) Summary: Representatives of the Alaska North Slope natural gas producers now hope that the GOC may be reconsidering its options regarding a permitting authority for the Alaska Natural Gas Pipeline. A GOC decision that the 1,300 mile Canadian portion of the proposed pipeline could be permitted under either of two competing provisions of Canadian law would be a major victory for the producers, who strongly argue that they need flexibility in determining the pipeline's route, specifications, and financial terms. End summary.

[1](#)2. (SBU) In a meeting with ESTOFFs, officials from ExxonMobil, BP and ConocoPhillips said that they believe the GOC is re-examining what observers previously believed was an imminent decision to declare the Northern Pipeline Act (NPA) as the only valid permitting authority for the Canadian portion of the Alaska Natural Gas Pipeline. The 1970's-era NPA would give exclusive construction rights for the Canada portion of the line to Calgary-based TransCanada Pipelines Ltd., a situation which ExxonMobil, BP and ConocoPhillips have called unacceptable. Rather, the producers have argued that existing pipeline permitting rules administered by Canada's National Energy Board (NEB) are adequate to handle the Alaska pipeline, and would offer the flexibility needed to minimize risks and maximize efficiencies.

A Decision Delayed  
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[1](#)3. (SBU) In February, Minister of Natural Resources John Efford told Alaska Governor Frank Murkowski that a decision on a permitting authority would be made "in two or three weeks," and strongly hinted that the GOC would favor the NPA (ref B). No such announcement has followed, and the delay could be a sign that Natural Resources Canada, which was widely seen as strongly favoring the NPA, is losing influence on the matter within the GOC. Representatives of the producer companies told us that they have been calling on a range of officials within the GOC to advance the case for the NEB's flexibility, including the Ministries of Finance and Foreign Affairs, the Canadian Environmental Assessment Authority, and the Privy Council Office, which reports to the Prime Minister.

[1](#)4. (SBU) Whatever decision the GOC makes regarding a permitting authority, a legal challenge is likely. If NEB rules are declared valid for the Alaska project, TransCanada would almost certainly go to court and argue that the project can only be permitted under the NPA. On the other hand, the producers and other interested companies may well mount a challenge if the GOC does declare that the NPA is the only valid permitting mechanism. According to the representatives of the three companies, if the decision goes against TransCanada, it would have to limit its challenge to the validity of the NEB process, and not actual damages. Although TransCanada argues that it has spent C\$2 billion in "pre-build" for the Alaska line, the producer representatives said, most of that has been spent on pipelines which are currently in use and are fully costed. Thus, TransCanada would not suffer any real losses from its prior "investments" in an NPA-permitted pipeline.

[1](#)5. (SBU) In addition, according to the producers, there is likely to be an excess of capacity in existing pipelines as conventional gas production in the Western Canada Sedimentary Basin begins to decline. The NPA mandates a "bullet" line through Canada directly to the United States, which the producers see as inefficient given the coming excess pipeline capacity. The NEB process, they said, would provide greater flexibility in determining how the gas would be marketed in North America, and would still provide a benefit to

TransCanada by utilizing its existing pipelines. NEB permitting would also make it easier to construct a natural gas liquids (NGL) facility in Alberta -- a major industrial benefit -- to take advantage of the "wet" properties of the North Slope gas. The NPA did not envision an NGL facility, the representatives said, much less one that would be constructed in Canada and could provide product for both the U.S. and Canadian petrochemical industries.

16. (SBU) Calgary based-Enbridge Inc. has touted itself as a viable alternative to arch-rival TransCanada as prime pipeline contractor (ref C), and has taken a position on permitting authority which closely mirrors that of the producers. However, the three representatives told us that the companies themselves, ExxonMobil, BP, and ConocoPhillips, are perfectly capable of building and operating the pipeline.

As the BP representative noted, BP has built more natural gas pipelines around the world than either TransCanada or Enbridge. The actual work, he added, could be subcontracted to any number of companies, including Enbridge and/or TransCanada.

#### Potential for Delay

17. (SBU) According to the producer representatives, there is potential for the pipeline to be delayed on other fronts. Assuming that the producers are able to reach a financial agreement and royalty package with Alaska, similar arrangements would have to be worked out with the Yukon Territory and the provinces of British Columbia and Alberta. In addition, there are several unsettled tribal land claims in areas of the Yukon through which the pipeline would pass.

18. (SBU) The producer representatives noted that opening the Alaska National Wildlife Refuge (ANWR) for oil and gas development is extremely unpopular in Canada. As the Alaska pipeline and ANWR are debated, the producers said they would prefer to see the two issues kept separate (if natural gas is discovered in ANWR, it would likely be transported through the pipeline). For now, Canadian environmental NGOs concerned about northern pipelines are focusing their efforts on opposing the proposed Mackenzie Valley gas pipeline.

#### Comment

19. (SBU) As we read the events of the last several months, the companies have conducted a persistent, but low key, campaign to remind GOC officials that NEB rules can apply to the Alaska project. They appear to have had notable success, bringing in other GOC agencies as counterweights to Natural Resources Canada's evident preference for the NPA. Given that the GOC appeared last February to be on the verge of declaring the NPA as the only valid permitting authority, the producers' efforts seem to have been successful indeed.

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